

The Lead-Based Paint Pre-Renovation
Education Rule

INTERPRETIVE GUIDANCE FOR CONTRACTORS, PROPERTY MANAGERS, AND
MAINTENANCE PERSONNEL UNDER SECTION 406(b) OF THE LEAD-BASED PAINT
HAZARD REDUCTION ACT OF 1992

40 CFR PART 745 LEAD; REQUIREMENTS FOR HAZARD EDUCATION BEFORE
RENOVATION OF TARGET HOUSING

PART III

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18. Under the Pre-Renovation Education Rule, I have the option of using a certificate of mailing to notify the owner or occupant. What is the difference between a certificate of mailing and certified mail?

A certificate of mailing is a receipt showing evidence of mailing, while certified mail provides proof of mailing and delivery of mail. When using the certificate of mailing option, no record is kept at the mailing office and a receipt is not obtained when mail is delivered to the addressee. In contrast, the certified mail option provides a receipt to the sender and a record of delivery is maintained by the Postal Service. For additional information on sending the pamphlet via mail see question number 19.

If an individual chooses to mail the pamphlet, a certificate of mailing is the minimum requirement (see 745.85(a)(1)(ii) and 745.85(a)(2)(ii)). An individual utilizing the mailing option also has the option to use the more efficient certified mail process instead of the certificate of mailing.

19. I am planning on sending the pamphlet via the United States Postal Service's certificate of mailing delivery method to a tenant who occupies a unit scheduled to be renovated. Does the tenant's name need to be addressed on the mailing, or is it acceptable to address the envelope to Attn: Tenant/Occupant?

Yes, the tenant's name and address must be indicated on the mailing. Pursuant to the Pre-Renovation Education Rule a renovator must provide the Protect Your Family pamphlet to an adult in each unit. Therefore, the name and address of an adult occupant in each unit must be indicated on the mailing (see 745.85(a)(2) and 745.85(a)(2)(ii)). The renovator must also retain a receipt of a certificate of mailing from the Post Office at least 7 days before any renovation activities (40 CFR Part 745.85(a)), and retain a record of notification for 3 years.

20. During major events such as fire, flood, earthquake, etc., when does the emergency exemption provision in 40 CFR 745.82(b)(2) begin and end?

If a dwelling has been declared uninhabitable by state or local health, building or housing authorities because of an emergency or an immediate danger, then the emergency exemption provision applies. The Pre-Renovation Education Rule does not apply to "emergency renovation operations", defined as renovation activities, such as operations necessitated by non-routine failures of equipment, that were not planned but result from a sudden, unexpected event that, if not immediately attended to, presents a safety or public health hazard, or threatens equipment and/or property with significant damage. (See 40 CFR 745.83.) Once renovation operations are completed to make the dwelling habitable, the emergency exemption provision is no longer in effect.

In Part II of the October 15, 1999 Interpretive Guidance Document, Question #15 asked a related question dealing with whether or not the emergency repair exemption applies to the entire repair or only the emergency aspect of the repair. The exemption only applies to the emergency portion of the repair work.

21. Does the 406(b) requirement to give out the Protect Your Family pamphlet apply to non-profit groups that do renovation and remodeling for free?

No, section 406(b) of the Toxic Substances Control Act does not apply to non-profit organizations that perform renovation and remodeling without compensation (See question 8 in Interpretive Guidance II for more details). This rule only affects renovators and any other person who performs renovation work for compensation. Non-profit organizations are not regulated under this rule because these types of organizations do not fit the definition of a renovator as it is defined in this final rule. For example, an organization which utilizes volunteers to perform renovation without compensation is exempt from the 406(b) requirement to distribute the pamphlet. Likewise, if an individual offers to help another individual renovate without being compensated, that individual voluntarily performing the renovation activity is also exempt from the 406(b) requirement to distribute the pamphlet. A renovator is any person who performs for compensation a renovation. (40 CFR 745.83)

Some non-profit organizations have mission statements which include ensuring the safety of low-income families with children, this directly corresponds with the spirit of the lead rule. Non-profit organizations who perform renovation work on target housing for no cost could increase the safety of the volunteers and the occupants by distributing the lead education pamphlet with little to no burden. EPA will provide as many pamphlets as possible at no cost to the organization where appropriate and as needed. Contact the National Lead Information Center (1-800-424-LEAD) for more information on how to obtain lead information pamphlets.

22. The courtyard (common area) of a college dormitory is being renovated and within the college dormitory is an apartment dwelling which houses the residential director's family. Does the Pre-Renovation Education Rule apply to this situation?

Yes, the renovator is required to provide written notification to an adult occupant of the apartment dwelling no more than 60 days before any renovation activity commences.(40 CFR 745.85(b)(2)). The notice must describe the nature, location, start and end dates of work, and state how the occupant can obtain the Protect Your Family From Lead in Your Home Pamphlet from the renovator free of charge. The dormitory rooms are exempt from this rule. The Residential Director's apartment is affected by the rule but the dormitory rooms are not affected because the dorm rooms fall under the definition of a 0-bedroom dwelling.

The Pre-Renovation Education Rule does not apply to a 0-bedroom dwelling. A 0-bedroom dwelling is a residential dwelling in which the living area is not separated from the sleeping area. If the Residential Director's apartment, although located in the dormitory, is not a 0-bedroom dwelling, then an adult occupant of that apartment dwelling must receive written notification at least 60 days before the renovation activities begin. (40 CFR 745.85(b)(2))